

03-0826

REMARKS

Claims 1-20 are in the case. Claims 4, 6, and 10 are indicated as allowable if rewritten in independent form, for which indication the applicants thank the examiner. Claims 1-3, 5, and 7-9 are rejected under 35 USC § 102 over USPN 6,739,953 to Berman et al. Claims 11-20 are rejected under 35 USC § 112. Claims 1 and 11 have been amended and claims 3-6 and 8-10 are hereby cancelled. No new matter has been introduced by the amendments, which are supported by the disclosure of the original claims and the specification. Reconsideration and allowance of the claims are respectfully requested.

CLAIM OBJECTIONS

Claims 4, 6, and 10 are objected to as depending from rejected base claims. However, the office action states that these claims would be allowable if rewritten so as to not depend from a rejected base claim, and to contain all the limitations of the base claim and any intervening claims. Claim 1 has been amended to include the limitations of claim 4, and selectively the limitations of claim 5, which recites a spray nozzle.

Applicants note the spray nozzle in combination with the other elements of claim 1 is also patentable, as the spray nozzle of Berman et al. is not adapted to direct the spray against the layer on the substrate, because the nozzle of Berman et al. is fixed in its position, as is the location of the substrate – on the opposite side of the apparatus of Berman et al., and thus the spray nozzle is used only to replenish the slurry material and not to mechanically erode the layer on the substrate. Further, as depicted in the figures of Berman et al., the substrate is facing away from the direction of the spray from the nozzle. Thus, the nozzle is not in any way adapted to direct the spray against the layer on the substrate. As this is a requirement of the present claims, they patentably define over Berman et al.

As claim 1 is now allowable, claims 4, 6, and 10 have been cancelled. Reconsideration and allowance of claim 1 and those claims depending therefrom are respectfully requested.

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CLAIM REJECTIONS UNDER §112

Claims 11-20 are rejected under 35 U.S.C. 112. Applicants have amended claim 11 to clarify that the first and second portions being removed are both portions of the overlying layer and not the delicate underlying layer. As there are no other rejections directed toward claims 11-20, reconsideration and allowance of claims 11-20 are respectfully requested.

CLAIM REJECTIONS UNDER §102

Claims 1-3, 5, and 7-9 are rejected under 35 USC § 102 over Berman et al. As described above, claim 1 has been amended to be allowable, reciting at least one of a brush and a spray nozzle adapted to direct a spray against the layer, neither of which is described by Berman et al. Thus, claim 1 patentably defines over Berman et al. Reconsideration and allowance of claim 1 are respectfully requested. Claims 3, 5, and 8-9 have been cancelled. Dependent claims 2 and 7 depend from independent claim 1, and contain additional important aspects of the invention. Therefore, dependent claims 2 and 7 patentably define over Berman et al. Reconsideration and allowance of dependent claims 2 and 7 are respectfully requested.

CONCLUSION

Applicants assert that the claims of the present application patentably define over the prior art made of record and not relied upon for the same reasons as given above. Applicants respectfully submit that a full and complete response to the office action is provided herein, and that the application is now fully in condition for allowance. Action in accordance therewith is respectfully requested.

In the event this response is not timely filed, applicants hereby petition for the appropriate extension of time and request that the fee for the extension be charged to deposit account 12-2355. If other fees are required by this amendment, such as fees for additional claims, such fees may be charged to deposit account 12-2252. Should the examiner require further clarification of the invention, it is requested that s/he contact the undersigned before issuing the next office action.

To:


From: Rick Barnes

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Sincerely,

LUEDEKA, NEELY & GRAHAM, P.C.

By: 

Rick Barnes, 39,596

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